

**DEPARTMENT OF EDUCATION  
SPECIAL EDUCATION PROGRAMS  
Bennett Co. School District  
Accountability Review - Focus Monitoring Report 2008-2009**

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**Dates of On Site Visit:** November 12, 2008

**Date of Report:** December 23, 2008

3 month update due: March 23, 2009

Date Received:

6 month update due: June 23, 2009

Date Received:

9 month update due: September 23, 2009

Date Received:

Closed:

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**Program monitoring and evaluation.**

In conjunction with its general supervisory responsibility under the Individuals with Disabilities Education Act, Part B, Special Education Programs (SEP) of the Office of Educational Services and Support shall monitor agencies, institutions, and organizations responsible for carrying out special education programs in the state, including any obligations imposed on those agencies, institutions, and organizations. The department shall ensure:

(1) That the requirements of this article are carried out;

(2) That each educational program for children with disabilities administered within the state, including each program administered by any other state or local agency, but not including elementary schools and secondary schools for Native American children operated or funded by the Secretary of the Interior:

(a) Is under the general supervision of the persons responsible for educational programs for children with disabilities in the department; and

(b) Meets the educational standards of the state education agency, including the requirements of this article; and

(3) In carrying out this article with respect to homeless children, the requirements of the McKinney-Vento Homeless Assistance Act, as amended to January 1, 2007, are met. (Reference- ARSD 24:05:20:18.)

**State monitoring--Quantifiable indicators and priority areas.**

The department shall monitor school districts using quantifiable indicators in each of the following priority areas, and using such qualitative indicators as are needed to adequately measure performance in those areas:

(1) Provision of Free Appropriate Public Education (FAPE) in the least restrictive environment;

(2) Department exercise of general supervision, including child find, effective monitoring, the use of resolution meetings, mediation, and a system of transition services as defined in this article and article 24:14; and

(3) Disproportionate representation of racial and ethnic groups in special education and related services, to the extent the representation is the result of inappropriate identification. (Reference-ARSD 24:05:20:18:02.)

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**State enforcement -- Determinations.**

On an annual basis, based on local district performance data, information obtained through monitoring visits, and other information available, the department shall determine whether each school district meets the requirements and purposes of Part B of the IDEA...

Based upon the information obtained through monitoring visits, and any other public information made available, Special Education Programs of the Office of Educational Services and Support determines if the agency, institution, or organization responsible for carrying out special education programs in the state:

- Meets the requirements and purposes of Part B of the Act;
- Needs assistance in implementing the requirements of Part B of the Act'
- Needs intervention in implementing the requirements of Part B of the Act; or
- Needs substantial intervention in implementing the requirements of Part B of the Act. (Reference-ARSD 24:05:20:23.04.)

#### **Deficiency correction procedures.**

The department shall require local education agencies to correct deficiencies in program operations that are identified through monitoring as soon as possible, but not later than one year from written identification of the deficiency. The department shall order agencies to take corrective actions and to submit a plan for achieving and documenting full compliance. (Reference-ARSD 24:05:20:20.)

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## **1. GENERAL SUPERVISION**

**Present levels: (Statement of present levels of academic achievement and functional performance that resulted in area of non-compliance from report of December 2, 2004).**

### **ARSD 24:05:24:02 Duties of the district after referral**

Upon receiving a referral, the district shall conduct an informal review with the person making the referral and review of the student's school records. If after the informal review, the district determines that further evaluation is necessary, the district shall conduct a multidisciplinary evaluation with the consent of the parents. All referrals that do not result in an evaluation must be documented by the district. The monitoring team noted that a child was referred for an evaluation by a Birth to Three service coordinator. The child was not evaluated. No documentation was found by the team indicating the district's decision not to evaluate the child.

**Follow-up:** November 12, 2008

**The team found no referrals without an evaluation being completed.**

## **2. GENERAL SUPERVISION**

**Present levels: (Statement of present levels of academic achievement and functional performance that resulted in area of non-compliance from report of December 2, 2004).**

**ARSD 24:05:25:04:02. Determination of needed evaluation data** As part of an evaluation, the individual education program team and other individuals with knowledge and skills necessary to interpret evaluation data determine whether the child has a disability, and determine whether the child needs special education and related services, as appropriate, shall: review existing evaluation data on the child, including evaluations and information provided by the parents of the child; current classroom-based assessments and observations; and observations by teachers and related services providers.

In the review of 33 student files, the monitoring team did not find documentation in 11 of the files of parent input into the evaluation. In interviews, special education staff said they do make contact with parents/guardians prior to evaluation, either by telephone or in person, prior to evaluation. The staff stated they were not aware parent input into the evaluation must be documented.

**Follow-up:** November 12, 2008

All files reviewed included either parent input into the evaluation process or documentation of attempts to obtain that input.

### **3. GENERAL SUPERVISION**

**Present levels:** (Statement of present levels of academic achievement and functional performance that resulted in area of non-compliance from report of December 2, 2004).

#### **ARSD 24:05:25:06 Reevaluations**

Each school district shall conduct a reevaluation of each child with a disability in accordance with this chapter if the district determines that the educational or related service needs, including improved academic achievement and functional performance of the child, warrant a reevaluation, or if the child's parents or teacher requests a reevaluation. A reevaluation conducted for these purposes may not occur more frequently than once a year, unless the parent and district agree, but shall occur at least once every three years, unless the parent and the district agree that a reevaluation is unnecessary.

Through file reviews, the monitoring team found evaluations for four early intervention children were carried forward when the children transitioned to Part B at age three. The prior notice to the parents did not address why further evaluation data were not needed. In addition, an older student's previous cognitive assessment data was carried forward, although there was no reference of this on the prior notice for evaluation.

**Follow-up:** November 12, 2008

**The team found when it was appropriate to pull evaluation information forward, the district informed parents in writing on the prior notice.**

### **4. GENERAL SUPERVISION**

**Present levels:** (Statement of present levels of academic achievement and functional performance that resulted in area of non-compliance from report of December 2, 2004).

#### **ARSD 24:0530:15 Surrogate parents**

The district is responsible for the training and certification of surrogate parents and shall maintain a list of persons who may serve as surrogate parents. The monitor's validated the district is out of compliance for not having a list of individuals who could serve as surrogate parent if a parent or guardian cannot be located.

**Follow-up:** November 12, 2008

**Finding: Meets Requirement**

**The special education director for Bennett County schools has on file, a list of persons trained to act as surrogate parents if needed.**

### **5. GENERAL SUPERVISION**

**Present levels:** (Statement of present levels of academic achievement and functional performance that resulted in area of non-compliance from report of December 2, 2004).

#### **ARSD24:05:30:04 Prior notice and parent consent**

Written notice must be given to parents five days before the district proposes or refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of a free appropriate public education. Informed parent consent must be obtained

before conducting a first-time evaluation, reevaluation, and before the initial placement of a child in a program providing special education or special education and related services.

In reviews of student files, the monitoring team could not locate two students' prior notices/consent for reevaluation. No information was provided on the types of assessments the district was seeking consent to administer. In addition, no prior notice/consent and prior notice for the IEP meeting to dismiss a student from services were found.

**Follow-up:** November 12, 2008

**Consent for initial and reevaluation were found in all files. Types of assessments were listed for school aged children.**

**Finding: Out of Compliance**

**Pre-school evaluations listed the Battelle test but did not list the areas that were to be evaluated.**

**Corrective Action:**

<b>Corrective Action:</b> Document the specific activities and procedures that will be implemented and the data/criteria that will be used to verify compliance.	<b>Timeline for Completion</b>	<b>Person(s) Responsible</b>	<b>(SEP Use Only) Date Met</b>
<p><b>Activity/Procedure:</b> The district will provide training to all special education who work in the preschool setting in the following areas</p> <ol style="list-style-type: none"><li>1. Completing all required information on the prior notice for evaluation.</li></ol> <p><b>Data Collection:</b> 1. District will document date of training and names of staff who attended the training and the name/s of the presenter to the SEP.</p> <p>2. District administrator will review all evaluation/reevaluation files during the reporting period and verify eligibility documentation in the following areas:</p> <ol style="list-style-type: none"><li>a. Were documents completed with all required information,</li></ol> <p>Total number of files reviewed along with findings will be reported to SEP.</p>			

## **6. GENERAL SUPERVISION**

**Present levels: (Statement of present levels of academic achievement and functional performance that resulted in area of non-compliance from report of December 2, 2004).**

### **ARSD 24:05:27:01:03 Content of individualized education plan**

A student's IEP must contain present levels of performance based on the skill areas affected by the student's disability. The present levels of performance must include parent input and should be a reflection of the functional assessment information gathered during the comprehensive

evaluation. Parent input and how the child's disability affected his/her progress in the general curriculum was not consistently included in students' present levels of performance. With the exception of three high student files, the monitors' found that students' present levels of performance were not linked to skill specific functional assessment information.

Annual goals must be measurable and reasonable for the student to accomplish. Through file reviews, the monitoring team determined 25 of the 33 files did not have measurable annual goals. The monitors' also found six student files did not include a statement of the condition in either the annual goal or in the short-term objectives.

When students' present levels of performance indicated they were demonstrating problem behaviors in classes, the monitoring team found "No" was always checked when the IEP team addressed whether the student's general classroom behaviors impede learning.

**Follow-up:** November 12, 2008

**The impact of the disability on the student's academic performance was included in the present levels of performance and functional information was skill specific from both related service providers and the academic setting in all files. Functional information was used to develop measurable goals which included a statement of the condition.**

**Finding: Out of Compliance**

**In 2 of 9 files reviewed parent input was not addressed on the present levels of performance page. The Bennett County district has made some improvement on checking the "behavior impedes learning" statement when behaviors have been noted in the classroom; however two files where behaviors (including inattention) were noted prior to and during the evaluation yet "behavior impedes learning" was not checked.**

<b>Corrective Action:</b> Document the specific activities and procedures that will be implemented and the data/criteria that will be used to verify compliance.	<b>Timeline for Completion</b>	<b>Person(s) Responsible</b>	<b>(SEP Use Only) Date Met</b>
<p><b>Activity/Procedure:</b> The district will provide training to all special education staff in the following areas:</p> <ol style="list-style-type: none"> <li>1. Including parent input into the IEP and how to address when parents have no concerns.</li> <li>2. How to determine if behavior impedes the learning of a student or the learning of others. Specifically, what types of behaviors may impede learning.</li> <li>3. How to address positive behavior supports on the IEP.</li> </ol> <p><b>Data Collection:</b> District will document date of training and names of staff who attended the training and the name/s of the presenter to the SEP.</p> <ol style="list-style-type: none"> <li>1. District administrator will review all evaluation/reevaluation files during the reporting period and verify eligibility</li> </ol>			

documentation in the following areas: a. Were documents completed with all required information,			
Total number of files reviewed along with findings will be reported to SEP.			

## **7. GENERAL SUPERVISION**

**Present levels: (Statement of present levels of academic achievement and functional performance that resulted in area of non-compliance from report of December 2, 2004).**

### **ARSD 24:05:27:13:02 Transition services**

Transition services are a coordinated set of activities for a student designed within an outcome-oriented process, which promotes movement from school to postschool activities. The activities shall be based on the individual student's needs, taking into account the student's preferences and interests, and shall include instruction, related services, community experiences, the development of employment and other postschool adult living objectives, and, if appropriate acquisition of daily living skills and functional vocational evaluation. The monitors' noted that three of eight transition age student files had "Electives" written as many as five times in the student's course of study rather than courses that correlated with the student's interests and assessment information. In addition, statements of needed transition services, required by age 16 or younger if appropriate, were not addressed per requirements in three of the eight student files. A student's independent living area was addressed, "Defer til next year", and the student's community participation area was addressed, "OK". Another student's adult services transition area stated, "Div of Mental Health should be contacted" with no person/agency identified as responsible for the activity. Also, the transition-age student files did not consistently provide information pertaining to the when the transition activities would be initiated or completed.

Each student beginning at the age of fourteen or younger, if determined appropriate by the placement committee, must be invited to his/her IEP meeting. The monitoring team found through interviews and file reviews this was not consistently done.

#### **Follow-up:**

**The district is in the process of working with the area transition coordinator to determine if their transition process meets requirements. The team noted that students age fourteen or older are being invited to meetings.**

## **8. GENERAL SUPERVISION**

**Present levels: (Statement of present levels of academic achievement and functional performance that resulted in area of non-compliance from report of December 2, 2004).**

### **ARSD 24:0530:16.01 Transfer of parent rights**

At least one year before a student reaches the age of majority under state law, the student's individualized education program must include a statement that the student has been informed of his or her rights under Part B of the Individuals with Disabilities Education Act, if applicable, which will transfer to the student on reaching the age of majority. In a review of three student files, no statement was found indicating the students were informed of the transfer of rights one year before their 18<sup>th</sup> birthday per South Dakota law.

**Follow-up:** November 12, 2008

Three files of students age 16 or 17 were reviewed. The district is informing students of the transfer of rights and the special education director has devised a chart where she tracks students so that none are missed.

## **9. GENERAL SUPERVISION**

**Present levels:** (Statement of present levels of academic achievement and functional performance that resulted in area of non-compliance from report of December 2, 2004).

### **ARSD 24:05:28:01 Least restrictive environment**

Children in need of special education or special education and related services shall be provided special education programs and services to meet the individual needs that are coordinated with the regular education program whenever possible. Removal from the regular educational classroom may occur only when the nature of the severity of the child's needs is such that education in the regular classes with the use of supplementary aids and services cannot be achieved satisfactorily. Each child's IEP must include a justification for placement other than the regular education program.

The justification statement in the majority of student files reviewed by monitoring team did not include the continuum of alternative placements "Accept/Reject" format or state why the student must be removed from the regular classroom program. The statements were vague: "Accepted by all team members and current placement considered to be appropriate for the academic year"; and, "The IEP team selects regular classroom with modifications as the least restrictive environment for ...".

**Follow-up:** November 12, 2008

**In all files reviewed the district used the accept/reject format. Justification statements addressed what the student needed and why it could not be provided in the regular classroom setting.**